IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

OP.No. 33720 of 2001(L)

PETITIONER:

V.HARIDASAN NAIR,
S/O.VALAPPIL MADHAVI AMMA,
KACHERI AMSOM & DESOM, KOZHIKODE.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE LAND REVENUE COMMISSIONER (LR), LAND REVENUE DEPARTMENT, THIRUVANANTHAPURAM.

3. THE SPECIAL TAHSILDAR, LAND ACQUISITION, KOZHIKODE.

4. CORPORATION OF KOZHIKODE, REPRESENTED BY ITS SECRETARY.

R4 BY ADV. SRI.P.V.KUNHIKRISHNAN,SC,KOZHIKODE CORP
R1 TO R3 BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.M.P.NO.55120/2001 IN O.P.NO.343720/2001

DISMISSED

12/1/2007 SD/- K.T.SANKARAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE NOTICE DATED 22.8.2001 ISSUED BY THE THIRD RESPONDENT.

EXT.P2 TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENTS DATED 22.9.2001.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

ahz/

K.T. SANKARAN, J.

O.P.NO. 33720 OF 2001 L

Dated this the 12th day of January,2007

JUDGMENT

The petitioner challenges Ext.P1 notice issued under Rule 7(1) of the Land Acquisition Rules. Notification under Section 4(1) of the Land Acquisition Act was published in the Kerala Gazette dated 17.7.2001. Ext.P1 notice is dated 22.8.2001. Objections were called for as per Ext.P1 notice. Lands belonging to four persons are shown in Ext.P1 notice and those lands are stated to be required for the formation of a park. Land belonging to the petitioner is having an extent of 0.0510 hectare. In Ext.P1, Ammalukutty Amma is shown as the owner and petitioner is shown as the occupant. Petitioner filed Ext.P2 objections pursuant to Ext.P1. It is stated in Ext.P2 that the petitioner has reason to believe that the proposed acquisition for the construction of a park in front of the Calicut North Service Co-operative Bank Ltd. has been motivated by "some political pressure". It is also stated in the objections that there is no

need to acquire the property belonging to the petitioner for the construction of the park. It is also pointed out that there is another park one kilometre away and the existing park is not being maintained properly. No stay was granted while admitting the Original Petition. Order dated 15.2.2002 states that proceedings may go on but the award shall be passed and the petitioner will be dispossessed on obtaining orders from this Court.

2. In paragraph 6 of the statement of facts in the Original Petition, it is stated thus:

> "6. It is submitted that as per the provisions of Section 51 of the Kerala Municipality Act, 1994, hereinafter referred to as the Act, the 4th respondent has to submit a master plan in such form, as may be prescribed before the District Planning Committee, and any development approved by the 4th respondent can be implemented only subject to the approval of that master plan by the Government. It is reliably understood that there is no such approval has been granted by the authority to the said scheme, before it is implemented. Therefore the acquisition proceedings of the 4th respondent is totally unsustainable."

With reference to paragraph 6, the learned counsel

appearing for the fourth respondent, Corporation of Kozhikode, submitted that the District Planning Committee and the Government have approved the master plan for the Calicut city and that the proposed construction of park is included in the master plan. It is also submitted that the Corporation Engineer has approved the suitability of the project and the Government have accorded sanction for the project.

3. The averments made in the Original Petition and in Ext.P2 do not clearly show as to what is the political pressure in the matter of acquiring the property belonging to the petitioner. Necessary facts are not pleaded in the Original Petition to found the contention of malafides.

4. The learned counsel appearing for the fourth respondent submits that award enquiry is over and that the award is not passed only because of the interim order granted by this Court. Considering the averments in the Original Petition and the facts and

circumstances of the case, I am of the view that no grounds are made out to grant the reliefs prayed for in the Original Petition.

The Original Petition lacks merits and it is accordingly dismissed.

(K.T.SANKARAN)
Judge

ahz/

K.T.SANKARAN, J.

O.P.NO. 33720 OF 2001 L

JUDGMENT

12th January, 2007